

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Wilburt Hickman,

Petitioner

v.

Brian E. Williams, *et al.*,

Respondents

2:16-cv-00655-JAD-GWF

**Order Screening and Denying Petition
and Ordering Petitioner to File an
Amended Petition by August 15, 2016**

Nevada state prisoner Wilburt Hickman has filed a protective § 2254 petition. His petition states, in full:

Petitioner is seeking a state post-conviction relief and is filing, submitting this federal “Protective Petition”, and is asking this court to stay and [hold in abeyance] the federal habeas proceedings until state remedies are exhausted. This “Protective Petition” is requested pursuant to *Pace v. DiGuglielmo*, 544 U.S. 408, 414 (2005).¹

Hickman correctly notes that, if he has reasonable concerns about the timeliness of his state petition and whether that petition will toll the federal-limitations period, he may file a protective petition in this court and then move to stay that petition until the state-court proceedings have concluded. But Hickman’s protective petition is incomplete because he does not allege his grounds for relief. I therefore deny Hickman’s petition without prejudice and give him until August 15, 2016, to file an amended petition in which he alleges all of his grounds for relief. If the state-court post-conviction proceedings have not concluded by the time Hickman files his amended petition, then he should file a separate motion requesting a stay in this action. I express no opinion on the timeliness of Hickman’s currently filed protective petition or his amended petition. Hickman is cautioned that he remains responsible for calculating the federal limitations period under 29 U.S.C. § 2244(d)(1).

Accordingly, IT IS HEREBY ORDERED that **Hickman’s petition [ECF No. 1-1] is DENIED without prejudice. Hickman must file an amended petition containing all of his**

¹ ECF No. 1-1 at 3.

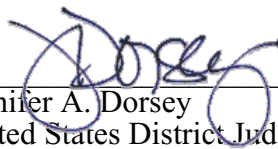
1 **grounds for relief by August 15, 2016. If Hickman does not file an amended petition by this**
2 **deadline, this case will be closed.** Hickman is directed to write the word "Amended" immediately
3 above the words "Petition for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254" on page 1 of
4 the form in the caption and write the case number 2:16-cv-00655-JAD-GWF above the word
5 "Amended."

6 The Clerk of Court is instructed to **FILE the petition [ECF No. 1-1]**, add Adam Paul Laxalt,
7 Attorney General for the State of Nevada, as counsel for respondent, serve respondents with a copy
8 of the petition and this order, and send Hickman a copy of this court's 28 U.S.C. § 2254 form and
9 instructions for the same. **Respondents must enter a notice of appearance by August 4, 2016.**

10 IT IS FURTHER ORDERED that any exhibits must be filed with a separate index of exhibits
11 identifying each by number or letter. Any attachments filed in CM/ECF must be identified by the
12 numbers or letters of the exhibit in the attachment. A hard copy of any state-court record exhibits
13 must be forwarded to the staff attorneys in Las Vegas.

14 IT IS FURTHER ORDERED that, from this point forward, Hickman must serve on
15 respondents (or if counsel has appeared for respondents, on respondents' counsel) a copy of every
16 pleading, motion, or other document filed in this case. Hickman must include with the original paper
17 submitted for filing a certificate stating the date that a true and correct copy of the document was
18 mailed to respondents or their counsel. The court may disregard any filing that does not include a
19 certificate of service.

20 Dated July 15, 2016

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22 Jennifer A. Dorsey
23 United States District Judge
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